

**MINUTES**

**OF THE**

**NATURAL RESOURCE COMMISSION**

**MEETING**

**DECEMBER 20, 2007**

**WALLACE STATE OFFICE BUILDING**  
**DES MOINES, IOWA**

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## MEETING MINUTES

### CALL TO ORDER

The meeting of the Natural Resource Commission was called to order by Chairperson Elizabeth Garst at 1:00 p.m. on Thursday, December 20, 2007 at the Wallace State Office Building, Des Moines, Iowa.

### MEMBERS PRESENT

Elizabeth Garst  
Carol Kramer  
Gregory Drees  
Janelle Rettig  
Lennis Moore  
William Bird  
Richard (Kim) Francisco

### APPROVE AGENDA

Commissioners were asked to modify the agenda by deleting the Open Records Training and moving that to the January meeting.

*Motion was made by Commissioner Francisco to approve the December 20, 22007 agenda as amended. Seconded by Commissioner Kramer. Motion carried unanimously.*

**AGENDA APPROVED AS AMENDED**

### HONEY CREEK RESORT STATE PARK AGREEMENT

Introductions were made of Andy Anderson, who is Bond Counsel and was in attendance to represent the Honey Creek Premiere Destination Park Bond Authority, which is comprised of the Treasurer, the Auditor and the Director of the Department of Management; and John Bermeister, Public Financial Management, who represents the Treasurer in dealings with the department on Honey Creek Resort State Park.

Terry Montgomery distributed a letter from the architect regarding the docks at Honey Creek and the icing of docks. Kelley Myers presented a copy of the code section dealing with the use of Marine Fuel Tax on projects.

Montgomery pointed out that the Hotel Management Agreement from the last meeting would be discussed. He noted the two locations in the agreement where changes were made at the request

of the commission. Information with regard to some of the water protection/water quality practices being used at Honey Creek was noted.

Kevin Szcodronski discussed his assessment of the RFP and interview process of selecting a management company. He said that Central Group stood out among the candidates with their understanding that the resort is in a state park and that Central Group captured the essence of things like prairies and interpretation and why this resort is different.

*Motion was made by Commissioner Bird to approve the Honey Creek Resort Management Contract with the noted changes. Seconded by Commissioner Francisco.*

Commissioner Bird related that he had talked with Mr. Anderson who explained some IRS and tax issues. He asked Mr. Anderson to explain those issues to the entire commission.

Andy Anderson reported that he has worked on this project since 2005 when the Honey Creek Authority was created as a bonding authority to finance this project. The Authority is made up of the Treasurer of State, the Auditor, and the Director of the Department of Management, and they have worked closely with DNR on financing this project. He said the project has been a team effort with all facets of the state to execute the plan and move the project along. Anderson reviewed what the IRS regulations allow. He said the money is being borrowed at a tax exempt rate so there are certain regulations, one of which is a management contract structure that must be followed. It is structured in a way that is fairly limited and it is not always possible to find people that want to operate under this structure. Anderson said a lot of hard work went into this contract and Dorsey and Whitney have represented the DNR on this project and helped negotiate the contract.

Anderson explained that one of the things that the Authority and the DNR have done is promised the people that the money was borrowed from, that a private management company would operate the resort by a management agreement. He said those covenants must be followed. Anderson said many of the documents were approved before many of the present commission members were on the commission, but like the IRS regulations constrict us, so do some of the bond documents. He noted that the Authority has conveyed to the legislature how important it is to build the cabins as it is part of the financing structure.

Commissioner Garst related that there is a need for significant legislative support and asked if this project is getting in the Governor's budget. Mr. Anderson responded that he has talked to some on the Governor's staff and that they are aware of the importance of this issue.

Commissioner Rettig commented that there is some interest in the legislature and in the Governor's Office of building cabins over two years but that there is some question on whether they can bind future legislatures to expenditures. Andy Anderson responded that the bond documents have the covenant to build the project within a certain timeframe so that will need to be looked at.

Discussion continued about the requirements in the bond document with regard to a replacement reserve fund and when we are required to start paying into that reserve fund. In addition, the

requirements of having the facility insured and whether it will be self-insured by the state was talked about. Terry Montgomery explained that the state is self-insured but because of the bond and the cash flows associated with the bond and the covenants of it, the Bond Authority requires that we also carry insurance on the project. Talk continued with questions of whether the hotel management agreement does meet the bond requirements in that there is no replacement reserve in the document they provided. Commissioner Rettig said the agreement paints a rather rosy economic forecast of what the management company can do. Terry Montgomery further talked about the RFP process and what information was required of the companies. Andy Anderson assured Commissioner Rettig that they would go back and look at the bond documents and the agreement to see that everything is covered.

Commissioner Drees reported that he had a conversation with owner interests on a couple of other properties that Central manages. He said they spoke well of the company and that put him more at ease.

Commissioner Moore commented that many projects start out with a great amount of risk and that this is one of them. He said he hopes that we reach a point where we can go forward in a very positive manner and have a Honey Creek Resort that we are proud of in the future.

Terry Montgomery summarized that the project has been extensively discussed and it has very much been a team effort working with various entities and numerous communities.

Commissioner Garst stated that there is some worry about the projections. She said we do not know in advance what the occupancy rate is going to be, but that with reworking and refining the budget, that it can be stress tested. She encouraged looking again at all the numbers.

Commissioner Rettig commented that she would be voting "no" because she does not believe an average room rate of \$140 and occupancy of 64% is doable; therefore, she questions the entire hotel management agreement. She stated that while she was skeptical from the beginning, the projections have gotten rosier and more expensive. Rettig said she is not voting "no" because of Central Group but because of the negotiating point of the department in the economic analysis and expectations for the park. She added that over five months have passed and that has not been re-looked at and actually the economic projections are worse.

*Motion to approve the Hotel Management Agreement as amended carried on a 6-1 vote with Commissioner Rettig voting "na.y".*

**AGREEMENT APPROVED**

## **LEGISLATION**

Diane Ford-Shivvers, Conservation and Recreation Division, presented the following item.

### **2008 Department of Natural Resources Legislation**

### Conservation and Recreation Division

#### Continued from 2007

#### **HF 562 - Amend 481A.130 concerning the civil damages for illegally taking a bobcat and civil damages for illegally taking sport fish**

- Establishes a damage fee for illegally taking bobcat at \$200.
- Damages for taking a fish with established daily limit greater than 25 remains at \$15.
- Damages of taking fish with established daily limit of 25 or less is \$50 with these exceptions; paddlefish set at \$500; muskellunge \$500 for 50" or less plus \$100 for each inch over 50".
- Establishes a damage fee of \$50 for taking largemouth and smallmouth bass; walleye; northern pike; channel and flathead catfish; rainbow, brown and brook trout plus \$50 for each inch over designated size.

The bobcat is currently under the definition of common furbearing game, and the damage fee for illegal take (\$50) is not appropriate for this species. Values for illegally taken fish are well below those of most of the neighboring states and do not cover the cost of producing sport fish. Stakeholder groups are in favor of this. (Note: this does not include fish kills from pollutants. Also, please note that these dollar amounts represent damages for illegal activities, and do not constitute a "fee increase" or a tax. )

#### **SF 591 - Amend 482 concerning the commercial harvest of fish and turtles.**

- Establishes separate licenses for commercial fish buyers and commercial turtle buyers, and requires records of their purchases from the commercial harvesters.
- Eliminates the designated operator license and requires each commercial fisher who operates a crew to purchase an owner's license.
- Establishes a commercial fish helper's and a commercial turtle helper's license, and sets the cost at \$50 for each license.
- Prohibits nonresidents and aliens from harvesting turtles for either sport or commercial purposes from all inland waters of the state.
- Aligns residency requirements for commercial fish and turtle harvest with residency requirements for fishing and hunting licenses.
- Increases the boundary water sport trotline license to \$20.00 for residents and \$40.00 for nonresidents (not changed since 1987). The boundary water sport trotline license permits the licensee to use a maximum of four trotlines with up to 200 hooks total on the Mississippi, Missouri, and Big Sioux River.
- These changes help maintain accurate harvest records for resource management, bring regulations in line with other states, clean up law enforcement issues, and bring fees in line with inflation and other states.

#### **SF 203 - Amend 462A.12 to require personal flotation devices for children under 13**

This requires children to wear a personal flotation device on a moving vessel unless the child is in a fully enclosed area or on a commercial excursion boat of a certain size. It improves child safety, and brings Iowa in line with the rest of the states and federal regulations. Only two other states do not have a comprehensive life jacket for children requirement.

#### **HSB 29 - Amend 483A concerning the number and cost of nonresident hunting licenses**

The department proposes to amend 483A by making two changes concerning the number of nonresident hunting licenses.

- Allow for the issuance of up to 3,000 additional nonresident any sex deer licenses.
- Allow for the issuance of additional 1,000 nonresident wild turkey licenses.

Each year the DNR turns away approximately 6,000 nonresident any sex deer license applicants, including nonresident landowner applications. This increase will partially address the depletion of the Fish and Game Trust Fund due to inflation.

**New Initiatives****Analyze Hunting and Fishing Fees**

The Fish & Game Trust Fund is continually depleted due to the fixed cost of revenue and the cost of living budget needs for salary increases. (The staff in three Trust Fund bureaus, as opposed to most other state staff, does not receive salary adjustment funding through the state appropriations process.) The fund is also impacted by the increase in land prices when attempting to permanently protect natural areas through purchase or easement; by the popularity of the HUSH program exceeding the HUSH dollars collected; and the cost of the deer depredation program. The department is conducting a study to review other states' approaches to license increases and ascertain what the market will bear, and to explore ways of putting together an increase in license cost, including possibly asking for authority to raise the fees.

**Technical/Corrective Conservation & Recreation Code Changes**

The department proposes to amend Code sections to "clean up" administrative procedures or correct identified problem areas. This includes the following: moving the responsibility of inspecting gambling facilities now that floating casinos no longer have to "sail"; developing non-compliance disciplinary language for sovereign lands encroachments; clarifying certain definitions in the ATV and snowmobile codes; accommodating permanently legally blind persons who want to hunt with a laser sight; forbidding known sex offenders from registering a state park as a permanent address; technical clean-up changes in the hunter education code; addressing damages assessed for illegally transporting invasive species.

**Bills of Interest:**

- HF 366 Autumn Olive Control—Pilot Project—appropriates \$60,000 for a cooperative management project to control the invasive Autumn Olive
- SF 48 Statute of Limitations on Hunting & Fishing Violations—provides a three-year period to prosecute for simple misdemeanor violations (instead of one year)
- SF 49 .08 BAC while Boating—brings BWI in line with vehicle OWI
- SF 247 Designate Black Bears & Cougar as Furbearers—puts these species in the furbearer category with a closed season to protect these rare animals but allow for protection of personal property and lives
- SF 587 Conservation Tax Credits—creates a charitable conservation contribution income tax credit equal to 50% of the fair market value

**Appropriations Issues (DNR proposed budget—especially Honey Creek Resort Park funding)****Emerging Issue:**

Sustainable Funding legislation

Diane Ford-Shivvers reviewed the legislative bills introduced last year, giving a status update and noting the support and work accomplished on those bills. Commissioners were asked to contact the office if they have questions regarding specific legislation that needs to be talked about before the legislative breakfast. Ford-Shivvers noted that she, along with Director Leopold and Sharon Tahtinen have talked with legislative leadership on the issues as well as with individual legislators.

Discussion included topics on the low zebra mussel fine, the word "alien" when talking about a non US citizen and whether that is a Code definition, taking turtles from the side of road, public outreach/education to commercial turtle licensees on endangered turtle issues, personal flotation

devices for children, and raising the number of non-resident any sex deer licenses from 6,000 to 9,000, along with adding an additional 1,000 non resident wild turkey licenses.

Regarding deer depredation issues, Commissioner Bird asked that with the Farm Bureau more involved, would there be a better chance for legislation on a deer license increase to go through. Ken Herring responded that this probably will not change mindset of the hunters in the state nor sway most legislators.

Commissioner Garst expressed regret that staff backed off the 6,000 figure for an increase in license numbers. She said it is doubtful the smaller increase will help much and will not realize the potential of out-of-state hunters. Herring explained that certain individuals have indicated the 3,000 number would be easier to support.

Garst also commented that the economic development potential for the state of Iowa needs to be expressed when talking about the issue of deer licenses. Diane Ford-Shivvers replied that it is on the poster that will be at the Legislative Breakfast, is in our literature and is talked about with constituents.

Commissioner Bird asked that legislative information be compiled and sent to them so that they can talk to legislators about raising the license numbers. Ken Herring reported that the Wildlife Bureau is collecting vital data by surveying landowners for that argument. He said landowners are the key to who hunts on their land and this information is the most powerful information that can be presented in support of raising non resident license quota.

Commissioner Garst stated that it seems that a fairly small percentage of people are blocking the license increase quota because there is not an organized advocacy group other than DNR staff. She suggested that the hotel-motel type of people be brought in for support of the bill, along with the Department of Economic Development. Garst asked if DED has this on their legislative agenda and if not, why.

Commissioner Rettig urged staff to not be pessimistic about trying to get an increase in non resident deer licenses because there may be more people who would think this is a good idea if they just understood it. She said Farm Bureau needs to be our partner in this and it should be a priority of their legislative agenda. Rettig related that this is not just a Fish and Game Trust Fund issue; it is also an economic development issue. She said that with all the damage to land and property and car accidents, along with all those letters to the editor from people who want us to do something about our herd, she also agrees that the people who are opposed to an increase in the number of licenses issued may be outnumbered by the people who think it is a good idea. Rettig reiterated that those people need to be empowered and Farm Bureau needs to be more involved.

Commissioner Francisco commented that the main thing people are against is the belief that non resident licenses are the reason they are having trouble getting access to private land. He said, however, that he believes the reason is because private land has become so valuable from the recreation standpoint that people can lease. Their argument is if there are more non residents, more of it will be leased. Francisco said his concern about the way it has changed is that we are



no longer saying we are going to use the income from the extra licenses for a private land leasing access program and that needs to get back on the table.

Ken Herring announced that the department is undertaking a Kaizen process on the deer depredation program. The Farm Bureau and other stakeholders will be involved in that process and these issues will be discussed during that process.

Funding of salary increases and other issues concerning the Fish and Game Trust Fund were talked about. Commissioner Rettig asked if separate funding from a different budget line through a negotiated contract could be requested for salary increases and inflationary numbers. Linda Hanson related that this argument has been made to the Department of Management, but to no avail. Rettig asked for that issue be revisited and kept on the table.

Discussion continued on additional legislation, including forbidding known sex offenders from registering a state park as a residence, and whether there should be prohibition of any unauthorized person from using a state park as their residence, and the developing non-compliance disciplinary language for sovereign lands encroachments. Additional information on SF 247 was requested.

Report was made that a meeting is scheduled for January 7th with the Legislative Steering Committee to consider a proposal/recommendation from the Sustainable Funding Advisory Committee. Diane Ford-Shivvers noted that staff has been working with leadership and key legislators, as well as local stakeholders on Honey Creek funding. A legislative reception for Honey Creek is planned to take place February 19th at Quality Inn in Des Moines. Commissioner Rettig suggested taking legislators on a virtual tour of the Resort and all commissioners were asked for other ideas and suggestions.

<b>INFORMATION ITEM</b>
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## **GENERAL DISCUSSION**

Commissioner Garst noted that a hire has been made to work with the wildlife diversity section to “help make the Wildlife Action Plan real.” She commended staff for making that a budget priority and asked that there be an agenda item on this subject sometime in the spring.

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Commissioner Drees asked how commissioners should respond to invitations for commissioners to attend meetings and other functions at different locations around the state. This may be discussed when governance issues are talked about at a future meeting.

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Linda Hanson introduced Don Labate from the Engineering Bureau to provide a response to the questions and concerns about how engineering projects are done. Labate provided the following outline regarding environmentally friendly engineering projects.

## **How the DNR Engineering Bureau is using Green/Environmentally Friendly Sustainable Architecture**

## A. P&amp;I/Roads

1. Recycled Asphalt and concrete – used frequently
2. Pervious Paving
  - a. Pervious Pavers – 2 projects completed & 1 in design
  - b. Porous Concrete – still in infancy
  - c. Permeable Asphalt – still in infancy
3. Recycled materials
  - a. Parking Bumpers
  - b. Railing and Fencing
  - c. Surfacing Materials

## B. Buildings &amp; Structures

1. Geothermal Heating – several built projects
2. Solar Heating for Water – 2 completed shower buildings
3. Passive/Gravity Venting – non-electrical venting systems
4. Use of Recycled Materials
5. Use of Energy Efficient systems
6. Rain Gardens – storage and filtration of surface run-off
7. Maintenance free surfacing
8. Efficient Lighting
9. Siting of buildings for less disturbance of land & maximum solar gain
10. Low flow plumbing fixtures

## C. Campgrounds/Electrical

1. Efficient Design of water & electrical systems and layout
2. Use of Recycled Materials
3. Water retention and bio-retention systems

## D. Sewer/Water Projects

1. Use of boring versus trenching – less disturbance of trees, vegetation, roads and soils...therefore less erosion
2. Best Practices for sewer design and distribution systems – the use of chamber systems for leach fields vs. traditional fields
3. Attempt to tie into Rural Water and Local Sewer where possible – less cost, less maintenance, less chemical treatment

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Commissioner Francisco remarked that it is important to have signage to tell the public what is being done. Commissioner Rettig added that it is important for the public to be aware of “green” work and that staff should brag more and keep doing what they are doing, but to think bolder. She said the agency should do what is the right thing to do, but not necessarily the cheapest thing to do. Commissioner Drees added that he appreciates the report and said that the more details that can be given the commission on construction item briefs, the better.  
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Decision was made to defer Open Records Law Training until a later meeting.

## ITEMS FOR NEXT MEETING

Several topics were mentioned to be discussed at future meetings. These include:

- Records retention training
- Governance issues
- Policy development
- Commission service—attendance at public meetings/functions
- Appointments to outside boards, committees or task forces and how that is done
- Election of Officers
- Role of Commission/role of staff

Commissioner Garst suggested that significant time be scheduled to discuss governance issues. Along with that, she said policies that are clear to staff should be developed and documented. In addition, Garst requested that a decision be made on how the NRC officers are elected. She noted that an earlier decision was to have a nominating committee, but a recent e-mail from Commissioner Kramer indicated opposition to that decision. Kramer stated that the tradition of moving the vice-chair to chairperson and secretary to vice-chairperson and then electing a new secretary has worked very well in the past and has allowed each commission member to serve as chairperson at some point in their term if they so desire. She said the present policy of rotating the chair position among the entirety of the commission by natural rotation based on dates of appointment has worked smoothly and has helped maintain unity and commonality with the commission and eliminates the divisiveness that comes with other election processes.

Also talked about was ways to communicate more effectively or productively between the commission and staff, along with what is the role of the commission and what the role of staff is. Suggestions included holding some sort of board-staff training, perhaps with a good facilitator. Note was made that the Governor's conference on boards and commissions was good and the handbook from that session was interesting. A joint training session with the Environmental Protection Commission was also suggested. Comment was made that we should not get into a situation of making more guidelines and that working through difficult issues such as Honey Creek can be contentious and expected.

Decision was made to include a discussion on how to elect commission officers and talk about policy development at the February 14 meeting in Boone. An IT presentation will be at the January meeting. A discussion on committee structures and attending public meetings will be talked about at a later meeting.

Commissioner Kramer commented that it is important for commissioners to attend the field trips the day before the NRC meeting. She said those trips have been very helpful in understanding the various parts of DNR, in getting to know each other personally and getting to know the field staff.

Commissioner Garst noted that the tours scheduled the day before the meeting date are not posted and suggested the website mention those tours.

## **NEXT MEETING DATES**

The next meeting will be held January 15th in Des Moines.

## **ADJOURNMENT**

*Motion was made by Commissioner Bird to adjourn December 20, 2007 NRC meeting. Seconded by Commissioner Kramer. Meeting adjourned at 3:45 p.m.*

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Richard A. Leopold, Director

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